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Karl Morell
Of Counsel

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August 30, 2012

BY HAND DELIVERY

Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

232890

Re: STB Docket No. AB 6 (Sub-No. 485X), BNSF Railway
Company -- Abandonment Exemption -- In McKinley County,
New Mexico

Dear Ms. Brown:

Attached for filing are the original and ten copies of a Notice of
Exemption under 49 C.F.R. § 1152.50. Also attached is a check
covering the \$3,700 filing fee.

If you have any questions, please call me.

Sincerely,

Karl Morell
Of Counsel

ENTERED
Office of Proceedings

AUG 30 2012

Part of
Public Record

Enclosures

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SURFACE
TRANSPORTATION BOARD

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SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

BNSF RAILWAY COMPANY)	
ABANDONMENT EXEMPTION)	DOCKET NO. AB 6
IN MCKINLEY COUNTY,)	(SUB-NO. 485X)
NEW MEXICO)	

NOTICE OF EXEMPTION

BNSF RAILWAY COMPANY
2650 Lou Menk Drive
P.O. Box 96157
Fort Worth, TX 76161-0057

Tyler White
Assistant General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131-2828
(817) 352-2687

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Dated: August 30, 2012

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

BNSF RAILWAY COMPANY)	
ABANDONMENT EXEMPTION)	DOCKET NO. AB 6
IN MCKINLEY COUNTY,)	(SUB-NO. 485X)
NEW MEXICO)	

NOTICE OF EXEMPTION

BNSF Railway Company ("**BNSF**") files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 to abandon 5.11 miles of rail line located between milepost 14.50 and milepost 19.61, north of Defiance, in McKinley County, New Mexico (the "**Line**"). There are no stations on the Line.

1. *Proposed consummation date.*

The proposed consummation date is on or after October 19, 2012.

2. *Certification required by 49 C.F.R. § 1152.50(b).*

The required certification is attached hereto as **Exhibit A**.

3. *Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7) and (8) and (e)(4).*

(a) *General.*

(1) *Exact name of applicant.*

BNSF Railway Company

- (2) ***Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.***

BNSF is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

- (3) ***Relief sought.***

BNSF seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon 5.11 miles of rail line located between milepost 14.50 and milepost 19.61, north of Defiance, in McKinley County, New Mexico. There has been no local or overhead freight rail traffic on the Line since February, 2010.

- (4) ***Map.***

A map of the Line is attached as **Exhibit B**.

- (7) ***Name, title and address of representative of applicant to whom correspondence should be sent.***

Tyler White
Assistant General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, TX 76131

- (8) ***List of all United States Postal Service ZIP codes that the line proposed for abandonment traverses.***

The Line traverses U.S. ZIP code: 87319.

- (e) ***Rural and community impact.***

- (4) ***Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect***

the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

The Line traverses a rural area with little, if any, need for additional roads or highways. Also, it is very unlikely that the rail corridor is needed for transit purposes. The right-of-way, however, may be suitable for recreational trails. Some of the property underlying the right-of-way is reversionary, which would affect the transfer of the property for other than rail or rail-banking purposes.

4. *The level of labor protection.*

The interests of railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

5. *Certification.*

Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.12 are attached as **Exhibit C**.

6. Environmental Report.

The Environmental Report containing information required by 49 C.F.R. § 1105.7(e) is attached hereto as **Exhibit D**. Based on information in our possession, the Line does not contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

7. Historic Report.

The Historic Report containing information required by 49 C.F.R. § 1105.8 is attached hereto as **Exhibit D**.

Respectfully submitted,



Tyler White
Assistant General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131-2828
(817) 352-2687

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Dated: August 30, 2012

EXHIBIT A

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF TEXAS

)

)

ss.

TARRANT COUNTY

)

I, Farah Ali, being duly sworn depose and state that I am Manager Network Studies for BNSF Railway Company ("**BNSF**"), that I am authorized to make this verification and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information and belief.

I hereby certify that no local traffic has been handled to or from any customer over the rail line located between milepost 14.50 and milepost 19.61, north of Defiance, in McKinley County, New Mexico ("the **Line**") since February, 2010. Also, no overhead traffic has been handled on the Line since February, 2010. Further, no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant since February, 2010.

The foregoing certification is made on behalf of BNSF by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information and belief of the undersigned.

Farah Ali

Farah Ali
Manager Network Studies

SUBSCRIBED AND SWORN TO before me this 22 day of August, 2012.

My Commission Expires: 3-5-2016

Marla Ann Gibson

Notary Public





Defiance, McKinley County, NM
Mile Post: 14.5 to 19.61

EXHIBIT B

EXHIBIT C

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in STB Docket No. AB 6 (Sub-No. 485X) was mailed via first class mail on August 15, 2012, to the following parties:

State Public Service Commission

New Mexico Public
Regulation Commission
1120 Paseo De Peralta
P.O. Box 1269
Santa Fe, NM 87501

Military Traffic Management Command

Military Surface Deployment and Distribution Command Transportation
Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225-5006

National Park Service

U.S. Department of the Interior
National Park Service
Recreation Resources Assistance Division
1849 C Street, NW
Washington, DC 20240-0001

Mr. John Wessels, Regional Dir.
Intermountain Region
National Park Service
12795 Alameda Parkway
Denver, CO 80225

U.S. Department of Agriculture

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Yates Building
201 14th Street, SW
Washington, DC 20250

Dated: August 30, 2012


Karl Morell

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in STB Docket No. AB 6 (Sub-No. 485X) was published on August 23, 2012, in the Gallup Independent, a newspaper of general circulation in McKinley County, New Mexico as required by 49 C.F.R. § 1105.12.

Dated: August 30, 2012


Karl Morell

**CERTIFICATE OF SERVICE
ENVIRONMENTAL AND HISTORIC REPORTS**

The undersigned hereby certifies that, in STB Docket No. AB 6 (Sub-No. 485X), the transmittal letter required by 49 C.F.R. § 1105.11, was mailed to all agencies listed in 49 C.F.R. § 1105.7(b), as well as the additional agencies listed below via first class mail on August 10, 2012.

Pursuant to the requirements of 49 C.F.R. § 1105.7 and 1105.8, the undersigned hereby certifies that copies of the foregoing Environmental and Historic Reports were mailed via first class mail on August 10, 2012 to the following agencies:

Ms. Victoria Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423-0001

Mr. John Kendall
Wildlife Biologist – T&E Program
BLM – Farmington Field Office
6251 College Blvd., Suite A
Farmington, NM 87402

Mr. Tim Hagaman, Chairman
McKinley County
Economic Development
409 South Second Street
Gallup, NM 87301

The National Geodetic Survey
Department of Commerce/NOAA
SSMC3
Station 9356
1315 East West Highway
Silver Spring, MD 20910

New Mexico Office of the State Engineer
130 South Capitol Street
Concha Ortiz y Pino Building
P.O. Box 25102
Santa Fe, NM 87504-5102

Mr. Everett H. Spencer
TX/NM Storm Water Enforcement Team
USEPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

U.S. Fish & Wildlife Service
Southwest Region
P.O. Box 1306
Albuquerque, NM 87103-1306

New Mexico Environment Department
Harold L. Runnels Building
1190 St. Francis Drive
Suite N4050
Santa Fe, New Mexico 87505

Ms. Crystal Salas
Environmental Protection Assistant
NPS – Intermountain Regional Office
12795 W. Alameda Pkwy.
Denver, Colorado 80225-0287

Mr. J. Xavier Montoya
State Conservationist
Natural Resources Conservation Service
6200 Jefferson NE, Room 305
Albuquerque, NM 87109

Historical Society of New Mexico
P.O. Box 1912
Santa Fe, New Mexico 87504

U.S. Army Engineer District, Albuquerque
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435

New Mexico Department of Transportation
1120 Cerrillos Road
Santa Fe, NM 87504-1149

New Mexico Public Regulation Commission
1120 Paseo De Peralta
P.O. Box 1269
Santa Fe, NM 87501

Dated August 30, 2012


Karl Morell

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

BNSF RAILWAY COMPANY)	
ABANDONMENT EXEMPTION)	DOCKET NO. AB 6
IN MCKINLEY COUNTY,)	(SUB-NO. 485X)
NEW MEXICO)	

ENVIRONMENTAL AND HISTORIC REPORTS

BNSF RAILWAY COMPANY
2650 Lou Menk Drive
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Tyler White
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BALL JANIK LLP
Suite 225
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Service Date: August 10, 2012

ENVIRONMENTAL REPORT

(49 C.F.R. § 1105.7)

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF Railway Company ("BNSF") proposes to abandon 5.11 miles of railroad line in McKinley County, New Mexico, located between Milepost 14.50 and Milepost 19.61, north of Defiance (the "Line"). A map of the project area is attached as **Exhibit A**.

Unless railbanked, the Line will be salvaged and abandoned.

The following information addresses BNSF's salvage process as it relates to this project:

The proposed abandonment will include the removal of track materials such as rails and ties and one bridge, but the roadbed will be left intact. If the Line is railbanked the bridge will not be removed.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from among the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be re-sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts, ballast and right-of-way will remain intact so as not to alter the prevailing waterflows along the Line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right-of-way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions imposed by the Office of Environmental Analysis of the Surface Transportation Board (OEA) in their final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including OEA-imposed conditions, if applicable.

The Line has had no traffic since February, 2010. Therefore, only limited maintenance has been performed on the Line in recent years. Consequently, the proposed abandonment will have limited impact on rail freight operations and maintenance practices on the Line.

The only alternative to abandonment would be not to abandon the Line and forego the opportunity costs of not salvaging the Line.

(2) Transportation System *Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.*

No passenger or freight traffic will be diverted to other modes as a result of the proposed abandonment. There has been no local or overhead traffic on this Line since February, 2010. Therefore, the proposed abandonment will have no adverse effect on local or regional transportation systems or patterns.

(3) Land Use

(i) *Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.*

The proposed action should be consistent with existing land use plans. BNSF contacted the McKinley County Economic Development.

As of the date of this Environmental Report, the McKinley County Economic Development has not responded to our inquiry. A copy of the letter is attached as **Exhibit B.**

(ii) *Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agriculture land.*

BNSF does not believe the proposed abandonment will have any effect on any prime agriculture lands. BNSF contacted the New Mexico NRCS State Office ("NRCS") concerning the proposed abandonment. Mr. J. Xavier Montoya, State Conservationist, at NRCS, replied in a letter stating, "...the proposed project will not cause Prime or Unique Farmlands to be converted to nonagricultural uses...." A copy of the letter is attached as **Exhibit C.**

(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.

BNSF does not believe the proposed abandonment is located within a designated coastal zone. BNSF contacted the New Mexico Office of the State Engineer concerning the proposed abandonment (see attached **Exhibit D**) and as of the date of this Environmental Report the agency has not responded to our inquiry.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

The right-of-way does not appear to be suitable for alternative public use.

(4) Energy

(i) Describe the effect of the proposed action on transportation of energy resources.

The proposed abandonment will have no effect on the transportation of energy resources.

(ii) Describe the effect of the proposed action on recyclable commodities.

The proposed abandonment will not adversely affect movement or recovery of recyclable commodities.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The proposed action will not result in an increase or decrease in overall energy efficiency.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) an average of 50 rail carloads per mile per year for any part of

the affected line, quantify the resulting net change in the energy consumption and show the data and methodology used to arrive at the figure given.

The proposed action will not cause such diversions.

(5) Air

(i) *If the proposed action will result in either:*

(A) an increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of the line affected by the proposal, or

(B) an increase in rail yard activity of at least 100 percent (measured by carload activity), or

(C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

The proposed action will not result in meeting or exceeding the specified thresholds for increased rail or truck traffic as outlined in (i) (A), (B) or (C) above.

(ii) *If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:*

(A) an increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) an increase in rail yard activity of at least 20 percent (measured by carload activity), or

(C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State Implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed action will not result in meeting or exceeding the specified thresholds in

(ii) (A), (B) or (C) above.

(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and Freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

The proposed abandonment will not affect the transportation of ozone depleting materials.

(6) Noise If any of the thresholds identified in item (5) (i) of this section are surpassed, state whether the proposed action will cause:

(i) an incremental increase in noise levels of three decibels Ldn or more; or

(ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

Not Applicable.

(7) Safety

(i). Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings).

This abandonment should have no adverse effect on public health or safety. There are no crossings on this Line.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

The abandonment will not result in the transportation of hazardous materials.

(iii) If there are any known hazardous waste sites or sites where there have

been known hazardous material spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

There are no known hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way.

(8) Biological Resources

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

BNSF does not believe the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat. BNSF contacted the U.S. Fish and Wildlife Service concerning the proposed abandonment (see attached **Exhibit E**) and as of the date of this Environmental Report the agency has not responded to our inquiry.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

BNSF does not believe the proposed abandonment is likely to affect any wildlife sanctuaries or refuges, or any National or State parks or forests.

BNSF contacted the National Park Service concerning the proposed abandonment. Ms. Crystal Salas, Environmental Protection Assistant, NPS – Intermountain Regional Office, replied in an e-mail dated July 10, 2012, stating “The National Park Service has no comment on the subject project.” A copy of the e-mail is attached as **Exhibit F**.

BNSF also contacted the Bureau of Land Management concerning the proposed abandonment. Mr. John Kendall, Wildlife Biologist – T&E Program, BLM – Farmington Field Office, replied in an e-mail dated July 11, 2012, stating “...the proposed action

would have a 'no effect' determination on all federally-listed species and their habitat, in accordance to the Endangered Species Act of 1973. A copy of the e-mail is attached as **Exhibit G**.

(9) Water

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

BNSF believes the proposed abandonment is consistent with applicable Federal, State and local water quality standards. BNSF contacted the USEPA Region 6 and the New Mexico Environment Department concerning the proposed abandonment. Mr. Everett H. Spencer, TX/NM Storm Water Enforcement Team, USEPA Region 6, replied in an e-mail dated July 19, 2012, stating "...it does not appear that any storm water issues are present." A copy of the e-mail is attached as **Exhibit H**. As of the date of this Environmental Report, the New Mexico Environment Department has not responded to our inquiry (see attached **Exhibit I**).

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

BNSF does not believe the proposed abandonment will affect any designated wetlands or 100-year flood plains. BNSF contacted the U.S. Army Engineer District, Albuquerque, concerning the proposed abandonment (see attached **Exhibit J**) and as of the date of this Environmental Report the agency has not responded to our inquiry.

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental

protection or equivalent agency if they are unsure whether such permits are required).

BNSF believes the proposed abandonment will not require any permits under Section 402 of the Clean Water Act. BNSF contacted the USEPA Region 6 and the New Mexico Environment Department concerning the proposed abandonment. Mr. Everett H. Spencer, TX/NM Storm Water Enforcement Team, USEPA Region 6, replied in an e-mail dated July 19, 2012, stating "...it does not appear that any storm water issues are present." A copy of the e-mail is attached as **Exhibit H**. As of the date of this Environmental Report, the New Mexico Environment Department has not responded to our inquiry (see attached **Exhibit I**).

(10) Proposed Mitigation. *Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.*

BNSF does not expect any adverse environmental impact from the proposed abandonment and, therefore, sees no need for any mitigating actions. BNSF will, of course, consult (as required) with any recipients of this Environmental Report regarding appropriate mitigation actions and will comply with those mitigation actions required by the Board.

HISTORIC REPORT

(49 C.F.R. § 1105.8)

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF Railway Company ("BNSF") proposes to abandon the 5.11 miles of railroad line in McKinley County, New Mexico, located between Milepost 14.50 and Milepost 19.61, north of Defiance (the "Line"). A map of the project area is attached as Exhibit A.

Unless railbanked, the Line will be salvaged and abandoned.

Following is information addressing BNSF's salvage process as it relates to this project:

The proposed abandonment will include the removal of track materials such as rails and ties and one bridge, but the roadbed will be left intact. If the Line is railbanked, the bridge will not be removed.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from among the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be re-sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts, ballast and right-of-way will remain intact so as not to alter the prevailing waterflows along the Line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right-of-way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historic conditions imposed by the Office of Environmental Analysis of the Surface Transportation Board (OEA) in their final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including OEA-imposed conditions, if applicable.

The Line has been out of service since February, 2010. Therefore, only limited maintenance has been performed on the Line in recent years. Consequently, the proposed abandonment will have limited impact on rail freight operations and maintenance practices on the Line.

The only alternative to abandonment would be not to abandon the Line and forego the opportunity costs of not salvaging the Line.

HISTORIC REPORT

- 1. A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action)***

showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.

The required topographic map is attached to this Report as **Exhibit A**.

- 2. A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area***

The subject Line extends approximately 5.11 miles between Milepost 14.50 and Milepost 19.61, north of Defiance, in McKinley County, New Mexico. The average width of the right-of-way is generally 200 feet wide in rural areas and 400 feet wide in station grounds. There are no federally granted rights of way involved.

- 3. Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area.***

There is one bridge on the Line. It is as follows:

- 1) Milepost 16.10 – 252' length, 20' height; consisting of: 2 – 14' ballast deck timber spans, 1 – 48' ballast deck plate girder span, 1 – 100' ballast deck plate girder span, 1 – 48' ballast deck plate girder span, 2 – 14' ballast deck timber spans. All spans on timber piles. The bridge was built in 1974.

If the Line is railbanked, the bridge will not be removed. See **Exhibit K**, attached photographs.

- 4. The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known.***

There is one bridge on the Line. It is as follows:

- 1) Milepost 16.10 – 252' length, 20' height; consisting of: 2 – 14' ballast deck timber spans, 1 – 48' ballast deck plate girder span, 1 – 100' ballast deck plate girder span, 1 – 48' ballast deck plate girder span, 2 – 14' ballast deck timber spans. All spans on timber piles. The bridge was built in 1974.

If the Line is railbanked, the bridge will not be removed. See **Exhibit K**, attached photographs.

5. *A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.*

Located at the northern end of the Line is the McKinley Mine owned by Chevron Mining Inc. Until the mine closed in February 2010, the only traffic moving over the Line was unit coal trains originating at the mine.

6. *A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.*

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. These documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

7. *An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities).*

BNSF sent a letter to the Historical Society of New Mexico ("SHPO") in reference to the proposed abandonment. As of the date of this Historic Report, the agency has not responded to our inquiry. See attached copy of letter to SHPO as **Exhibit L**.

8. *A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.*

The Line was disturbed during original construction by cuts and fill and any archaeological resources that may have been located in the proposed project area would

have been affected at that time. Our records do not indicate any environmental conditions that might affect the archaeological recovery of resources.

9. ***Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specific non railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (i.e. prehistoric or native American).***

If any additional information is requested, BNSF will promptly supply the necessary information.



Defiance, McKinley County, NM
Mile Post: 14.5 to 19.61



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email - john.sims@bnsf.com

July 2, 2012

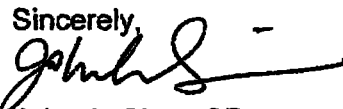
Mr. Tim Hagaman, Chairman
McKinley County
Economic Development
409 South Second Street
Gallup, NM 87301

**Re: STB Docket No. AB 6 (Sub-No. 485X) BNSF Railway Company –
Abandonment Exemption – in McKinley County, New Mexico**

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 5.11 miles of rail line in McKinley County, New Mexico, between Milepost 14.50 and Milepost 19.61 north of Defiance.

As part of the environmental report, BNSF is required to contact you to determine if the proposed abandonment is consistent with existing land use plans. If applicable, please describe any inconsistencies.

Your assessment and comments are respectfully requested. For your reference a map of the subject railroad line is enclosed. Please provide your response to me at the address above, if at all possible, by July 31, 2012. You may contact me by email or phone with any questions or concerns. Thank you in advance for your time and contribution.

Sincerely,

John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Mark Norton – BNSF – mark.norton@bnsf.com
Farah Ali – BNSF – farah.ali@bnsf.com

United States Department of Agriculture



Natural Resources Conservation Service
6200 Jefferson NE, Room 305
Albuquerque, NM 87109
Phone: (505) 761-4400 Fax: (505) 761-4462
Website: www.nm.nrcs.usda.gov

July 26, 2012

Mr. John A. Sims
BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2826

Dear Mr. Sims:

Thank you for providing the Natural Resources Conservation Service (NRCS) the opportunity to review the proposed STB Docket No AB 6, BNSF Railway Company Abandonment Exemption of 5.11 miles of rail line in McKinley County, New Mexico.

The Farmland Protection Policy Act (FPPA) authorizes the NRCS to provide review of proposed projects that have the potential to irreversibly convert farmlands to non-farmland uses as the result of programs funded by the federal government. In review of the information provided on the project, it is determined that the entire project is located in an existing BNSF Railway Company right-of-way area. The FPPA rules define farmland conversion to be "the extent that it irreversibly converts farmland to other purposes"; this project is not expected to have that effect. With this acknowledged, the proposed project will not cause Prime or Unique Farmlands to be converted to nonagricultural uses, and is not subject to the Act. The Impact Conversion Rating Form (AD-1006) is not needed for this project.

If you have any questions concerning soils information, please contact Clarence Chavez, Soil Data Quality Specialist, at (505) 761-4435 or email at clarence.chavez@nm.usda.gov.

Sincerely,



J. XAVIER MONTOYA
State Conservationist

cc:

Clarence Chavez, Soil Data Quality Scientist, NRCS, Albuquerque, NM

Helping People Help the Land

An Equal Opportunity Provider and Employer

D



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email – john.sims@bnsf.com

June 26, 2012

New Mexico Office of the State Engineer
130 South Capitol Street
Concha Ortiz y Pino Building
P.O. Box 25102
Santa Fe, NM 87504-5102

**Re: STB Docket No. AB 6 (Sub-No. 485X) BNSF Railway Company –
Abandonment Exemption – in McKinley County, New Mexico**

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice for Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 5.11 miles of rail line in McKinley County, New Mexico, between Milepost 14.50 and Milepost 19.61 north of Defiance.

As part of the environmental report, BNSF is required to contact your agency to determine if the proposed abandonment:

1. will affect land or water uses within a designated coastal zone;
2. is consistent with applicable Federal, State or local water quality standards (with a description of any inconsistencies identified); and
3. will require permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342).

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

The proposed abandonment will include the removal of the rails, ties and the one bridge on the line; however, the railroad right of way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right of way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from among the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts, ballast and right of way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right of way and not to place

fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted. Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions recommended by the Office of Environmental Analysis and imposed by the Surface Transportation Board in their final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

Please provide your assessment and comments to me at the address above, if at all possible, by July 26, 2012. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,



John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Mark Norton – BNSF – mark.norton@bnsf.com
Farah Ali – BNSF – farah.ali@bnsf.com



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2378
fax 817-352-2397
Email - john.sims@bnsf.com

June 26, 2012

U.S. Fish & Wildlife Service
Southwest Region
P.O. Box 1306
Albuquerque, NM 87103-1306

**Re: STB Docket No. AB 6 (Sub-No. 485X) BNSF Railway Company –
Abandonment Exemption – in McKinley County, New Mexico**

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 5.11 miles of rail line in McKinley County, New Mexico, between at Milepost 14.50 and Milepost 19.61 north of Defiance.

As part of the requisite environmental report, BNSF needs to know: 1) whether or not there are any endangered or threatened species, wildlife sanctuaries or refuges, or areas designated as critical habitat adjacent to or near the line, and 2) if so, what effects the proposed action may have on same.

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

The proposed abandonment will include the removal of the rails, ties and the one bridge on the line; however, the railroad right of way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right of way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from among the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be sold to lumber dealers for landscaping, and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts and right of way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right of way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions recommended by the Office of Environmental Analysis and imposed by the Surface Transportation Board in their final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

Please provide your assessment and comments to me at the address above, if at all possible, by July 26, 2012. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,



John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Mark Norton – BNSF – mark.norton@bnsf.com
Farah Ali – BNSF – farah.ali@bnsf.com

F

Sims, John A

From: Crystal_Salas@nps.gov
Sent: Tuesday, July 10, 2012 11:16 AM
To: Sims, John A
Cc: Estes, Courtney B; kmorell@bjllp.com; Norton, Mark A; Ali, Farah M
Subject: NO COMMENT: STB Docket No. AB 6 (Sub-No. 485X) BNSF Railway Company - Abandonment Exemption - McKinley County, New Mexico

Hi John,

The National Park Service has no comment on the subject project.

Thank you,

Crystal Salas
Environmental Protection Assistant
NPS - Intermountain Regional Office
12795 W. Alameda Pkwy.
Denver, Colorado 80225-0287
Tel: 303.987.6705
Fax: 303.969.2717
Email: crystal_salas@nps.gov

Sims, John A

From: Kendall, John B <j01kenda@blm.gov>
Sent: Wednesday, July 11, 2012 10:14 AM
To: Sims, John A
Cc: Estes, Courtney B; kmorell@bnsf.com; Norton, Mark A; Ali, Farah M
Subject: FW: BNSF Abandonment Exemption

Hello Mr. Sims,

I received a request to evaluate an railway abandonment in McKinley County, NM (STB Docket No. 485X). I reviewed the docket that you submitted to the BLM State Office. Your docket refers to 5.11 miles of rail line that is proposed for abandonment and salvage. According to our MTP records and GIS database, the proposed abandonment/salvage rail line includes multiple surface ownerships. According to my analysis the project area has approximately 2.8 miles of tribal surface, 1.3 miles of private surface, and 1.0 miles of BLM surface. In terms of federally-listed species under the Endangered Species Act, I can only give an effects determination on listed species on the BLM portion of the action area (unless I have previous knowledge of a listed species or their habitat that could be impacted on other lands, which I do not). The Navajo Nation and their Natural Heritage Program would need to review your project to give an effects determination on their portion of the action area.

Of the 7 federally-listed species that have the potential to occur in McKinley County, there is no designated critical habitat or potential habitat within your project's action area on BLM managed lands. Thus, the proposed action would have a 'no effect' determination on all federally-listed species and their habitat, in accordance to the Endangered Species Act of 1973.

Please contact me if you have any further questions or comments.

Thank you

John Kendall
Wildlife Biologist - T&E Program
BLM- Farmington Field Office
6251 College Blvd. Suite A
Farmington, NM 87402
O: (505) 564-7685
C: (505) 330-6200
Fax: (505) 567-7608

Sims, John A

From: Everett Spencer <Spencer.Everett@epamail.epa.gov>
Sent: Thursday, July 19, 2012 10:08 AM
To: Sims, John A
Cc: Diana McDonald
Subject: BNSF Railway Abandonment in McKinley County, NM

John,

From your June 26, 2012, letter explaining the scope of the 5.11 mile railway abandonment in McKinley County, it does not appear that any storm water issues are present. Since the land disturbance is less than one acre an EPA Storm Water Construction General General Permit (SWCGP) is not required. It is up to BNSF to make the call to obtain permit coverage if the disturbance exceeds the one acre threshold. Please be advised that the New Mexico Environment Department (NMED) conducts storm water inspections for the USEPA. If any issues should arise during the project a citizen's complaint could prompt an NMED inspection. Please observe any and all environmental regulations during the project. If any questions please call me at (214) 665-8060.

Everett H. Spencer
TX/NM Storm Water Enforcement Team
USEPA Region 6
Dallas, Texas
(214)665-8060



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive - AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email john.sims@bnsf.com

June 26, 2012

New Mexico Environment Department
Harold L. Runnels Building
1190 St. Francis Drive
Suite N4050
Santa Fe, New Mexico 87505

**Re: STB Docket No. AB 6 (Sub-No. 485X) BNSF Railway Company -
Abandonment Exemption - in McKinley County, New Mexico**

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 5.11 miles of rail line in McKinley County, New Mexico, between Milepost 14.50 and Milepost 19.61 north of Defiance.

As part of the requisite environmental report, BNSF needs to know: 1) whether or not this action will be consistent with Federal, State or local water quality standards, and 2) whether or not Section 402 and/or National Pollutant Discharge Elimination System ("NPDES") permits are required for performance of the salvage activity described below. Please note: **BNSF anticipates the proposed abandonment should not disturb more than one (1) acre of land.**

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

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fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted. Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

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Please provide your assessment and comments to me at the address above, if at all possible, by July 26, 2012. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,



John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Mark Norton – BNSF – mark.norton@bnsf.com
Farah Ali – BNSF – farah.ali@bnsf.com



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email – john.sims@bnsf.com

June 26, 2012

U.S. Army Engineer District, Albuquerque
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435

**Re: STB Docket No. AB 6 (Sub-No. 485X) BNSF Railway Company –
Abandonment Exemption – In McKinley County, New Mexico**

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 5.11 miles of rail line in McKinley County, New Mexico, between Milepost 14.50 and Milepost 19.61 north of Defiance.

As part of the requisite environmental report, BNSF needs to know: 1) whether or not Section 404 permits will be required for the performance of salvage activity, and 2) if the proposed abandonment will affect any 100-year floodplains or any designated wetlands. Your assessment and comments are respectfully requested. In addition, if it is your determination that floodplains will be affected please furnish, if available, 8½" x 11" black and white maps of each designated floodplain area. Please note: **BNSF does not anticipate any potential impacts to waters of the U.S. as a result of the proposed abandonment.**

For your reference a map of the subject railroad line is enclosed. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

The proposed abandonment will include the removal of the rails, ties and the one bridge on the line; however, the railroad right of way, ballast and culverts will remain in place.

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Please provide your assessment and comments to me at the address above, if at all possible, by July 26, 2012. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

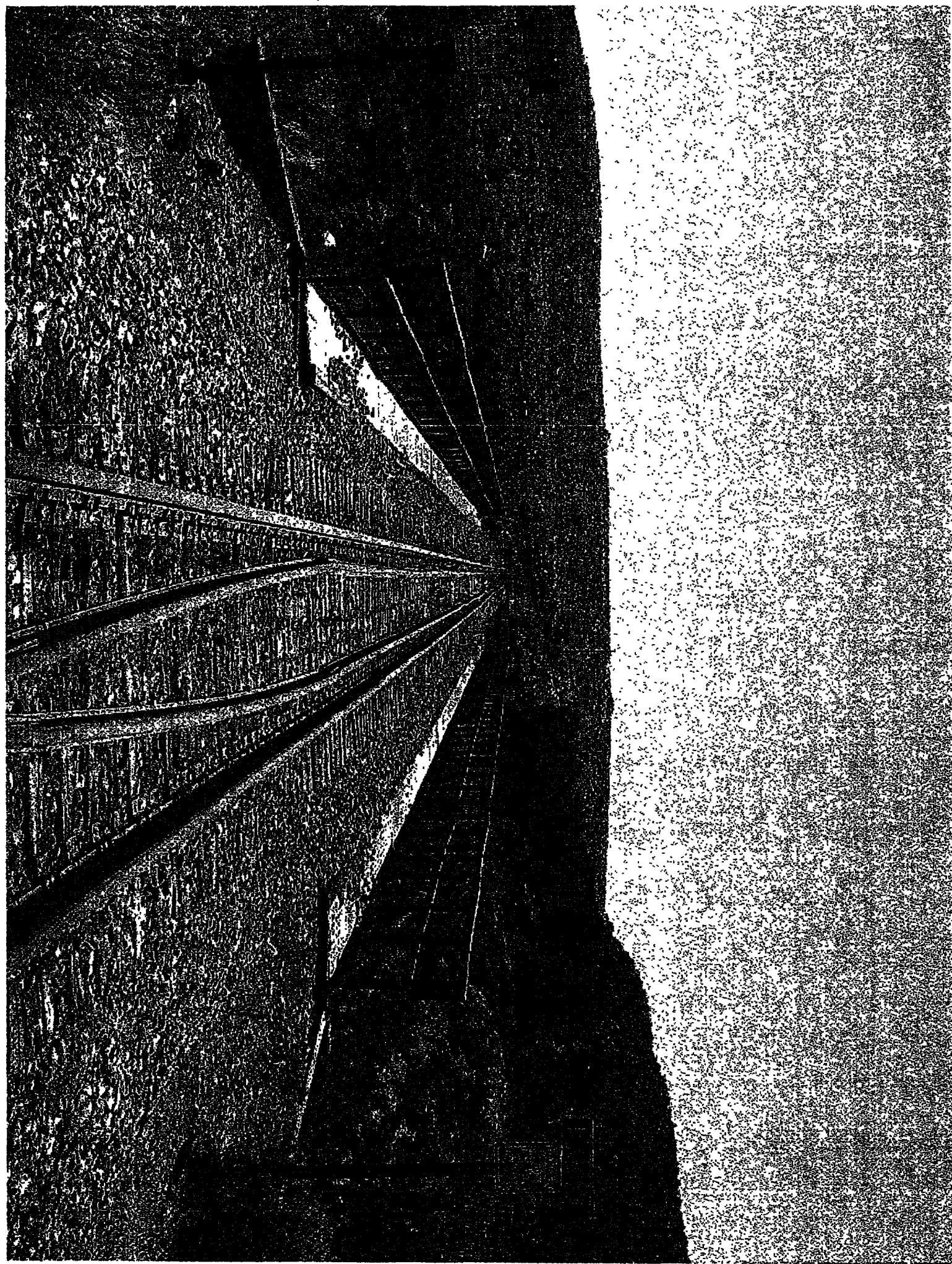
Sincerely,



John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Mark Norton – BNSF – mark.norton@bnsf.com
Farah Ali – BNSF – farah.ali@bnsf.com







John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email – john.sims@bnsf.com

June 26, 2012

Historical Society of New Mexico
P.O. Box 1912
Santa Fe, New Mexico 87504

**Re: STB Docket No. AB 6 (Sub-No. 485X); BNSF Railway Company – Abandonment
Exemption – In McKinley County, New Mexico**

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 5.11 miles of rail line in McKinley County, New Mexico, between Milepost 14.50 and Milepost 19.61 north of Defiance.

The proposed abandonment will require removal of track materials such as rails and ties, but the roadbed will be left intact. If the rail line is railbanked the one bridge will not be removed.

There are no structures associated with the line that are 50 years old or older. There is one bridge on the line that was constructed in 1974. Pictures of that bridge are enclosed.

As part of the historic report required by the STB, BNSF needs to know if there are any structures eligible for listing on the National Register of Historic Places and also if there are archaeological resources in the project area. BNSF will forward a copy of the historic report once it has been completed.

For your reference I have enclosed a map of the subject railroad line.

Please provide your assessment and comments to me at the address above, if at all possible, by July 26, 2012. You may contact me by email or phone with any questions or concerns. Thank you in advance for your time and contribution.

Sincerely,

John A. Sims, CP
Paralegal

Enclosures as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
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Farah Ali – BNSF – farah.ali@bnsf.com